

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 2, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor (Michael Cornelius and Gerry Krieser absent); Marvin Krout, Ray Hill, Mike DeKalb, Steve Henrichsen, Brian Will, Tom Cajka, Sara Hartzell, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held July 19, 2006. Motion for approval made by Carroll, seconded by Sunderman and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1940A, an amendment to the Cardinal Heights Community Unit Plan; SPECIAL PERMIT NO. 06042; SPECIAL PERMIT NO. 06043; COMPREHENSIVE PLAN CONFORMANCE NO. 06009; STREET AND ALLEY VACATION NO. 06006; and WAIVER NO. 06007.**

Ex Parte Communications: None.

Item No. 1.1, Special Permit No. 1940A, and Item No. 1.6, Waiver No. 06007, were removed from the Consent Agenda and scheduled for separate public hearing.

Carroll moved to approve the remaining Consent Agenda, seconded by Strand and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

Note: This is final action on Special Permit No. 1940A, Special Permit No. 06042, Special Permit No. 06043, and Waiver No. 06007, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 06042

**FROM AG AGRICULTURAL DISTRICT TO I-1 INDUSTRIAL DISTRICT ON PROPERTY
GENERALLY LOCATED SE OF S. 14TH STREET AND SALTILLO ROAD**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

AND

CHANGE OF ZONE NO. 06043

**FROM AG AGRICULTURAL DISTRICT TO I-1 INDUSTRIAL DISTRICT ON PROPERTY
GENERALLY LOCATED SE OF S. 14TH STREET AND SALTILLO ROAD**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Staff recommendation: Conditional Approval, subject to an annexation and development agreement.

Ex-Parte Communications: None.

The Clerk announced that the applicant has requested a two-week deferral.

Strand moved to defer, with continued public hearing and action scheduled for August 16, 2006, seconded by Carroll and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

WAIVER NO. 06007

**TO WAIVE SIDEWALKS, ON PROPERTY GENERALLY LOCATED AT S. 27TH STREET
AND PINE LAKE ROAD**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Removed from Consent Agenda due to letter in opposition.

Staff recommendation: Approval

Ex-Parte Communications: None.

Additional information submitted for the record: Tom Cajka of Planning staff submitted a letter in opposition from the Southern Hills Neighborhood Association. The letter states that they believe the sidewalk should be installed for safety reasons.

Staff presentation: Cajka stated that this application is within South Pointe commercial center to waive sidewalks along the west side of S. 30th Street (private Street), from Pine Lake Road to the east side of the Bed, Bath and Beyond building. There are existing sidewalks on the opposite side of the street. Throughout the rest of the commercial center, when originally approved, there was a waiver to allow sidewalks on just one side of the street and for some reason 30th St. was omitted and staff believes that may have been an oversight at that time.

Esseks questioned how much of a burden it would be to put a sidewalk where the letter indicates it is needed. Cajka referred to p. 48 of the agenda. There is a fire hydrant that would be in the way of the sidewalk. The landscaping and possibly the fire hydrant would have to be removed to install a typical 4' wide sidewalk.

Strand inquired if staff feels it is safe to have a sidewalk there forcing pedestrians to cross a loading alley with trucks backing in and out. Cajka noted that staff is recommending approval of the waiver. The existing pedestrian sidewalks and access are adequate.

Proponents

1. Jeff Gierhan, General Manager for South Pointe, provided additional information. Most of the information is already referred to in the staff report. He highlighted some of the important aspects. He submitted photographs showing the existing sidewalks, pointing out that the area is more than adequate for the foot traffic and the bicycles. The existing sidewalk ties Pine Lake Road through the entire property to the city trail on the north/back side of the property, providing access all the way through the site. There is a large gas meter on the side of the building as well as the fire hydrant. It is estimated to be a four to five foot elevation difference from the top of the existing sidewalk and where the sidewalk would have to be installed.

There was no testimony in opposition.

Staff response

Byron Blum of the City staff stated that he did a field check and it is not likely that a sidewalk can be built in this area. The applicant was advised to contact the Planning Department for a waiver. Due to the nature of where the Bed Bath and Beyond entrance is located, it is more toward the inside entrance facing the courtyard. Most of the tenants

gain access through the court yard area. People will tend to walk through Scheels to get access to the tenants quicker instead of walking around the buildings and utilizing the sidewalks.

ACTION BY PLANNING COMMISSION:

August 2, 2006

Taylor moved approval, seconded by Carroll and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

This is final action, unless appealed to the City Council within 14 days.

SPECIAL PERMIT NO. 1940A

AN AMENDMENT TO THE CARDINAL HEIGHTS COMMUNITY UNIT PLAN, TO ADJUST THE LOT LINES, AND WAIVER REQUESTS TO REDUCE LOT AREA AND AVERAGE LOT WIDTH, ON PROPERTY GENERALLY LOCATED AT NW 56TH STREET AND REDBERRY LANE

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Removed from Consent Agenda at the request of Commissioner Taylor.

Staff recommendation: Conditional Approval

Ex-Parte Communications: None.

Staff presentation: Cajka stated this special permit is basically to correct a problem that occurred when two houses were built. One was built too close to the lot line. Originally the applicant came in with a final plat to move the lot line to meet the side yard setback, but in doing that they created a lot that does not meet the minimum average lot width in the district. To correct that error, they needed to amend the community unit plan and in doing so, they have to bring in the entire boundary of the CUP. This application only affects two lots in the CUP.

Taylor wanted to know how this occurred. Cajka did not know. Either the pins were set in the wrong place (survey markers) or when they laid out the house it was not done correctly. This does happen on occasion. Taylor confirmed that there is no penalty and that this is their remedy.

Cajka stated there are homes built on each of the two lots. There are other lots in the development that do not meet the lot width and area requirements. Almost every lot in this development has been built upon. So just to do a clean-up and clarify it, we had this amendment apply to the entire CUP.

Proponents

1. **Marcia Kinning of ESP** appeared on behalf of the developer to answer any further questions.

Taylor questioned if she recalls how this happened. Kinning understands that there is an overhang on the house itself so that the foundation is set back about 2 feet. It is more the overhang than the foundation. There is also a patio that was built so ESP is attempting to keep that patio on the correct property. Kinning assumes that the builder made the error. There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

August 4, 2006

Taylor moved approval, seconded by Strand and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

This is final action, unless appealed to the City Council within 14 days.

CHANGE OF ZONE NO. 06044

FROM R-2 RESIDENTIAL DISTRICT TO B-1 LOCAL BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED AT A STREET AND MAXWELL STREET, WALTON, NE

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Staff recommendation: Denial

Ex-Parte Communications: None.

Staff presentation: Mike DeKalb of Planning staff stated this request is to change the zoning from R-2 to B-1 on the lot immediately south of the former Walton Trail Company building. The applicant is desirable of doing a septic system on the adjoining lot. Building & Safety indicates that the change of zone is not needed for this purpose. Staff recommends denial because it is not in conformance with the Comprehensive Plan. There are residential uses on three sides.

Proponents

1. **Risa Ross** stated the reason for the zone change is for the septic system and they are going to build a new shop. When she talked with the Planning Dept. they recommended that we change the zoning because we cannot use a septic system on a residential lot that is used for commercial.

Esseks questioned if the septic system is for an adjoining home. Ross replied that everything on the property will be torn down. They are building a new automotive repair shop and that is the purpose of the new septic system. One part of the property is residential and one part is commercial. They want it to all be commercial.

There was no testimony in opposition.

Staff response

DeKalb referred to the e-mail from Terry Kathe of Building & Safety dated 7/12/06: "If utilities are below grade, this department does not have a problem with locating a septic system in the residential district." In this circumstance, typically where it is a surface for parking or driveways, then the applicant would need a change of zone, but on a subsurface utility system they do not need the change of zone.

Esseks believes if the applicant could put a commercial building on the adjacent lot with commercial zoning, they could put in another commercial use on this lot in the future, if Planning Commission approves this. They can use the existing residential zoning to achieve their purpose.

Strand stated that when this property was Walton Trail Company, they had a small area between the Walton Trail Company and the house with wood chips, picnic tables, etc. They owned the house next door which is a rental. So it is a little bit of a commercial use abutting into the residential area anyway. DeKalb noted that page 84 of the agenda points out that area was actually zoned B-1 at that time and could likewise be used today. The change of zone in question had a house on it and is in the process of being torn down. DeKalb did not know the dimension between the buildings but the lot is 64' x 120' and north two feet is zoned business today.

Esseks wondered about the residential uses to the south and to the west are shown on the aerial on page 84. He questioned if any of those properties are zoned commercial. DeKalb replied they are all zoned residential. A little bit to the south is an open field and the Walton trail (zoned industrial) and elevators further to the south.

Larson believes the lot across the street to the west from the old Walton Trail Company is also zoned commercial. DeKalb concurred. The lot across the street to the west with a residence is split zoning just like this lot.

Taylor believes this is contrary to the Comprehensive Plan. DeKalb concurred. The Comprehensive Plan reflects the existing zoning and the language about neighborhoods would support retaining the current zoning. Taylor noted the area to the east is residential as well as west and south. He wondered what would be the problem in changing this zoning. DeKalb replied if it changes to commercial, the location of proposed buildings of commercial use shifts out. It could turn into a parking lot by right. If left as residential, they could get a special permit for a parking lot, if desired. The issue was if you need it for a septic system, you don't need it. They could operate their business in the B-1 zoning and they could have a septic system extend into the residentially zoned lot to the south. If we understand what they want to do, they could do it today.

Taylor questioned if there has been any opposition for the applicant utilizing that area. DeKalb has not received any comments, letters or e-mails to his knowledge.

Sunderman stated that part of this lot is zoned B-1. Is it possible to build a building straddling that lot line? DeKalb replied yes, if the applicant came in with a building permit defining a premise.

Strand wondered if B-1 was permitted throughout the entire lot, would the applicant still have to do all the screening if they wanted to use it for parking, etc. DeKalb stated they would do screening according to design standards without any additional review.

Esseks believes this would be a change of zone that would be a precedent that other landowners could use. DeKalb noted that if Planning Commission approves the B-1, it is sort of a blank check for additional commercial use and staff believes it impacts the residential areas.

Response by the Applicant

The applicant showed the layout of the building. Ross stated that the parking lot would be toward "A" Street. The area of the septic tank would be all grass. The house would be south of the building/bike trail now. There are three buildings on the property – bike trail shop, house and a garage.

Carroll believes that if Building & Safety allows the septic system, that accomplishes the applicant's goal. The applicant agreed. Ross stated that to build the shop, we have to have commercial zoning. Carroll noted that the applicant is only putting the septic system on the residential lot.

Strand questioned if the applicant needs the extra lot area for the building or parking. The Applicant indicated they did not.

ACTION BY PLANNING COMMISSION:

August 2, 2006

Larson moved approval, seconded by Strand.

Larson stated there is no opposition from anybody and he sees no reason why they should not eliminate the split zoning on the lot.

Carroll disagrees as far as the changing the zone. He believes if the applicant can accomplish the septic system on a residential lot, then let's not squeeze out the other residential uses to the south with the commercial zoning. This lot becomes a good buffer between business and the residential areas.

Taylor understands if the applicant can put the building on the commercial portion, along with the parking, and then have the septic system on the residential area, he does not understand the problem. He thinks the problem is solved. He sees no reason to change the zoning.

Esseks will vote against the motion. The assumption of the plan is to tell the owners of a particular parcel and those around, either current or perspective, the use has been approved for that parcel and now we are going to change that use and he does not see a good enough reason to make that change.

Carlson believes that based on the applicant's testimony, she is going to put her new commercial building on the business park with the septic on residential. It does not make any sense to rezone it. He would rather leave it the way it is.

Marvin Krout, Director of Planning, approached. He asked the applicant if she had been contacted by Building & Safety to tell her that she did not need commercial zoning for the septic system. Apparently, they did not contact her. Although someone at Building & Safety apparently was the person who told her she had to file the zoning application for the septic system, he believes the applicant said that she would be willing to withdraw the case if we could give her a refund. He believes it was an error by the City. Krout suggested a continuance.

Larson withdrew his motion for approval.

Strand moved to defer for two weeks, seconded by Carroll.

Carlson would like it confirmed by Building & Safety that you can build the septic system without the change of zone. Two weeks would allow for confirmation of this and the application can be withdrawn in the meantime. The Applicant is worried about a septic tank. She does not want to have to move the building. She is worried about the setbacks from the street. She wondered if her building is going to be able to sit on that lot as shown. DeKalb suggested that there needs to be further discussion with Building & Safety. Ross stated that Building & Safety told her to apply for the rezoning.

Larson asked the applicant if there is any time problem with deferring this application for two weeks. The applicant indicated she would agree with the two-week deferral.

Strand will vote to defer, but she is not crazy about taking a lot and splitting it. She would have voted in favor of the change of zone.

Motion to defer carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

SPECIAL PERMIT NO. 06044

GRANDALE COMMUNITY UNIT PLAN, FOR APPROXIMATELY 34 DWELLING UNITS, WITH REQUESTS TO ADJUST SETBACKS, LOT LINES, NON-PERPENDICULAR TO RIGHT-OF-WAY, AND ALLOW LOTS WITHOUT FRONTAGE TO A PUBLIC STREET ON PRIVATE ROADWAY, ON PROPERTY GENERALLY LOCATED AT S. 40TH STREET AND ROKEBY ROAD

AND

PRELIMINARY PLAT NO. 06009

GRANDALE, FOR APPROXIMATELY 189 LOTS ON PROPERTY GENERALLY LOCATED AT S. 40TH STREET AND ROKEBY ROAD
PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Staff recommendation: Conditional Approval, except denial of the waiver of block length and connection to adjacent street system.

Ex-Parte Communications: None.

Additional information submitted for the record: Brian Will submitted a letter from Todd Daringer generally in opposition, raising questions about the proposal. Will also submitted his written response to Mr. Daringer.

Staff presentation: Will stated this is two related items. The preliminary plat covers 160 acres and 189 lots and associated is the CUP including 34 single family dwelling units. There are several waivers that have been requested. Staff is recommending denial of the waivers of block length in excess of 1,320' and connection to adjacent to street system, but approval of lot lines not perpendicular to the right-of-way on the preliminary plat. However, staff is recommending approval of all waivers associated with the special permit. Staff is

recommending conditional approval. We find that otherwise subject to the conditions, that these requests comply with the zoning ordinance, subdivision ordinance and Comprehensive Plan.

The significant items of discussion with the applicant have been block length waiver and connecting to adjacent streets and adjacent subdivision and alignment of Rokeby Road. Relative to the connection with existing streets relates to Johnson right-of-way, which is an existing street in the acreage development to the east. Staff is recommending denial and is encouraging that the street connection be made.

Regarding block length, there are no street connections between “this point and this point” through the development. Staff is suggesting that the block length be broken between the area of the community unit plan and the remainder of the preliminary plat.

As noted in the staff report, the alignment of Rokeby Road has not yet been established between S. 40th St. and S. 56th Street. There are a few concerns by staff. One of the concerns relates to the drainage area to the east and the drainage running along the section line. The alignment in the preliminary plat shows the Rokeby Road alignment in a southerly direction which takes it directly into the drainage. We are suggesting a more northerly line may be more appropriate to avoid interruption of the drainage. Property owners in Silver Springs to the south are concerned about disturbance of the drainage impacting that property.

He believes the applicant will propose a motion to amend addressing some of these waiver requests.

Carlson questioned if Rokeby Rd. followed the section line as shown on p.107, does that move it south of the drainage area. Will agreed that it would be acceptable if it followed the section line.

Will noted that Southwood Lutheran Church is in the northwest corner of the preliminary plat.

Proponents

1. Kent Seacrest appeared on behalf of Southwood Lutheran Church and Buckshot Farms and Sundance, LLC, comprising 158 acres. They have had many good meetings with the neighbors, mainly the acreage owners to the east showing the overall master plan. This has been before Planning Commission and City Council annexing the first part north of the Rokeby Road area, and now we are here for the third step, the preliminary plat. Southwood Lutheran is building a very dynamic building, which is under construction, and we are trying to keep up with the church and race to get this preliminary plat done to get the road and waterline to the church by late fall.

1.1.1. He believes that staff is in agreement with the proposed motions to amend the conditions of approval. The neighbors do not support the connection to Johnson Road and we are suggesting an alternate connection to provide connectivity to the neighborhood. We will dedicate a new half-right-of-way on the northeast corner of the plat.

1.1.2 On the block lengths, we are willing to provide that connection between “right here” and it is our understanding we do not have to build a real wide street through the watershed minimum corridor.

1.1.3 We are showing one, two and eventually a third – between now and City Council, we need to show staff our justification for the extra access point on Rokeby Road to the satisfaction of the staff.

1.1.8 relates to the issue of the access points along Rokeby Road. The extra access is needed along Rokeby because of the creek.

Seacrest expressed appreciation to the staff for attending the neighborhood meetings.

Sunderman stated that instead of the access to the acreages, he does not understand the upper right access. Seacrest pointed out “this line” is a theoretical 48th Street. ½ mile from Yankee Hill to Saltillo is all acreages. So we have to figure out how to build through there. We are proposing to build it at the half-mile mark. This is what we call a “retro” of an acreage. By putting it at the half-mile mark, we could allow a road to go north, south or straight to allow some flexibility.

2. Jim Williamson, property owner of the acreage abutting the development. One of the reasons we do not support the Johnson Road connection is the amount of water. He has had six rain events in the last twelve years and the flood water comes right up to the sliding door of his walk-out basement. With that street connection, he believes he will have water issues in his home. The connection needs to be somewhere other than the floodplain area.

3. Jamie Bishop, South Corridor Neighborhood Association, 5050 New Castle. South Corridor N.A. is a coalition of four acreage neighborhoods. They have been involved in this proposal with the applicant and staff. Many of the people in the acreage areas are not excited about this area being urbanized but progress is progress, so our goal is to participate and minimize any of the negative consequences. South Porter was formed when the beltway process came forward. A couple of the corridors for the south beltway were Yankee Hill and Rokeby Road. The neighborhood's participation helped improve the decision making and they kept a freeway from going through Wilderness Park and keep community from building a freeway in a floodplain. That is our goal in this process.

We began meeting with the developer's representative on 10/25/05 and we presented a list of issues of concern. They have been pleased to have good cooperation with the developer and staff. Goals: we would like to take proactive steps to help identify the things that need to be preserved as part of this development. Also, they would like to encourage stronger pedestrian orientation. We are very concerned about increased traffic in acreage areas where the roads and sidewalk infrastructure just isn't there to protect the pedestrians. Another big concern is the floodplain and making flooding worse.

Generally, he has had several members of city staff tell him that they have not had to set aside easements for the floodplain where there are acreages because the acreages function as green space.

The neighborhood supports the good faith effort on the part of the developer to be a good neighbor, even though we don't always agree. They also appreciate the support and timely notifications provided by staff.

We are against more traffic on these rural acreage roads. They are simply not ready for it. We would like to see costly mistakes avoided by doing good planning up-front. We would like to protect the environmental values such as trees, streams, vistas, wildlife corridors, floodplains and landscapes. We also believe there may be some solutions that have not yet been thought about. With respect to the Rokeby Road alignment, we would like to know where it is coming in and where 48th Street would be. We also agree that this is an opportunity to put it in the right way. It would be a bad decision to put Rokeby Road on the section line due to the floodplain. We disagree that Rokeby Road should be a four-lane road. We would be much more comfortable with a more residential type road. We certainly don't feel it is necessary to have a 50 mph arterial roadway going through there.

He also believes there are some medium turn benefits in downsizing Rokeby from four to two lanes. It could be done sooner and it could be put in at a lower cost. We would like to see that change. We also think it would be more attractive to home values and be a calmer, more residential type road and increase more buildable lots. There is sufficient ability to carry a volume of traffic on Yankee Hill to the north and then Saltillo and the Beltway to the south. Closing the Johnson Road connection is a good decision.

In general, we disagree with the staff on some of the connectivity issues. There is no room for traffic to zoom through these neighborhoods. We look to the Rokeby Road solution as a way out. We would like to see it come in sooner in the right place, and in a smaller and more affordable fashion.

Bishop showed pictures of a flooding event that took place in May of 2001. He noted there was 1.5 inches of rain and flooding of a creek that is 6-8 feet deep. He is concerned about that being made worse with roads and concrete.

He doesn't want to make the flooding worse. He wants to get the traffic right. We want to participate in the process. He is hopeful that there is sufficient flexibility on the part of staff to deal with some of the compromises that are coming forward. 12 people stood in the audience in support of his testimony.

4. Dennis Bornscheigl, 4800 Johnson Road, lives across the street from Jim Williamson, abutting Johnson Road and the proposed development. The amendment being proposed for the access road or street is on the northwest corner of his property. We are in full support of this compromise and will cooperate. He reiterated that there is a flooding problem. A couple of years ago, we had water come up to our septic tank with potential problems for the septic system. With the floodplain being redrawn, about 1/3 of our lot is in the floodplain. This is a much more appealing solution to not have Johnson Road opened up, with the compromise being made with a street to the north of his property.

5. Mark Davidson, 10000 Cromwell Drive, and his wife and two children testified in support of the South Corridor Neighborhood Association. They are concerned for the safety of the families with the traffic going through the neighborhoods.

6. Don Everett, owns property backing up to this development. He did not receive notice of this public hearing. He talked with Mr. Sampson at the time the property was put up for auction and encouraged him to keep the property the way that it is. There are some streets that should not be connected. His property is in Silver Springs to the south. The roads have fallen apart already and he does not want to see any additional traffic coming through Silver Springs. He would like to see a road going straight north or south from Saltillo to Rokeby Road. It would help move the traffic north to south and not weaving in and around the adjoining neighborhoods. He would be willing to buy some of the property back. There is an artesian well on the property and he has counted 28 deer. He wonders whether any environmentalists have commented on this proposal.

There was no testimony in opposition.

Staff response

Will advised that the Planning Department does send notice to all surrounding property owners within 200'. If there is a neighborhood association, they also receive notice.

Staff does support the applicant's motion to amend. The relocation of the connection to the east has less to do with the connection to Johnson Road. There appears to be some practical difficulties in making the connection there. Providing at least a connection to the north accomplishes the same goal.

Dennis Bartels of Public Works stated that in regards to Rokeby Road, the Comprehensive Plan shows it as a major street and staff is asking for the 120' of right-of-way that would accommodate four lanes. This is Tier One of the Comprehensive Plan. It is shown as a two-lane arterial with the annexation agreement. That is what we have asked them to build. We have no intention of building a four-lane roadway. Our vision would be a two-lane Rokeby Road, offsetting right-of-way to accommodate a future four-lane if and when it ever became necessary. As envisioned by the Comprehensive Plan and Long Range Transportation Plan for the next 25 years, the two-lane arterial should suffice. We would desire it to arterial standards with the appropriate cures but we would envision a 26' wide two-lane street with turn lanes at the intersections. Perhaps the road never would be four-lane if the traffic never justified it.

Esseks questioned the connectivity. The only connection between the new development and the acreages to the east is not Johnson Road? It is further north. Bartels replied there are two streets that connect out of the neighborhood to the east. The compromise is to require a stub street that would come up to the east line of Grandale or west line of the acreages. It would be good to have the connectivity today, but it is important at the point in time when those acreages start to redevelop. There would be no connection required at Johnson Road, but it would stub the street up there so at the time those acreage lots start to develop there would be another means of access.

Esseks wondered about flooding. It looks as though the Johnson Road properties have some type of creek abutting their properties. He questioned if this development will drain into this creek. Bartels replied that the acreage properties drain into the Grandale property. The acreages are upstream from the new development. The concern in extending Johnson Road is that the dead-end as it exists today, dead ends into the conservation easement/floodplain area. Immediately west you would have to build a box structure or a bridge. This would be a lot of cost for the connectivity if it can be accomplished otherwise.

Esseks wondered if the drainage facilities for the new development to the west of Johnson Road should be able to carry the 1.5 to 2 inch rainfall sufficiently. Bartels replied that is the purpose of the drainage study that was submitted. The City purchased the conservation easement over that ditch. The drainage study is indicating it will not cause a problem and he does not anticipate a problem upstream because of this development.

Staff agrees with the motion to amend.

Response by the Applicant

Seacrest expressed appreciation to the neighbors for their time and support and their willingness to continue to work with the developer.

SPECIAL PERMIT NO. 06044

ACTION BY PLANNING COMMISSION:

August 2, 2006

Strand moved approval, with conditions, seconded by Sunderman and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

This is final action, unless appealed to the City Council within 14 days.

PRELIMINARY PLAT NO. 06009

ACTION BY PLANNING COMMISSION:

August 2, 2006

Strand moved conditional approval, with amendments submitted by the applicant, seconded by Sunderman and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

This is final action, unless appealed to the City Council within 14 days.

*** Break ***

COMPREHENSIVE PLAN AMENDMENT NO. 06001

TO AMEND THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE LAND FROM AGRICULTURAL TO INDUSTRIAL AND COMMERCIAL BETWEEN N. 40TH STREET AND N. 56TH STREET, NORTH OF INTERSTATE 80 AND SOUTH OF BLUFF ROAD; A CHANGE FROM AGRICULTURAL TO LOW DENSITY RESIDENTIAL ON THE SOUTH SIDE OF BLUFF ROAD 1/4 MILE WEST OF N. 56TH STREET; AND TO DESIGNATE ALL OF THE LAND IN THE PROPOSAL AS TIER 1, PRIORITY A, AND INCLUDE INSIDE THE FUTURE SERVICE LIMIT

AND

COMPREHENSIVE PLAN CONFORMANCE NO. 06008

TO REVIEW THE PROPOSED "NORTH 56TH STREET AND ARBOR ROAD REDEVELOPMENT PLAN" FOR THE AREA GENERALLY BOUNDED BY N. 70TH STREET ON THE EAST, N. 40TH STREET ON THE WEST, ON EITHER SIDE OF INTERSTATE 80, AND BETWEEN BLUFF ROAD ON THE NORTH AND SALT CREEK ON THE SOUTH, EXCEPT THE BLUFF ROAD LANDFILL FACILITY, AS TO CONFORMANCE WITH THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Staff recommendation: Approval of Comprehensive Plan Amendment No. 06001 and Conformance with the Comprehensive Plan for Comprehensive Plan Conformance No. 06008

Ex-Parte Communication: None

Staff presentation: Steve Henrichsen of Planning staff stated this amendment is a follow-up to Comprehensive Plan Amendment No. 05009, which was part of the Annual Review in 2005. That was about 200 acres north of I-80, west of 56th Street and also west of the landfill. It was about 200 acres that drained by gravity to the south generally to the west of 56th St. That area was designated as light industrial at the time. This amendment is for an additional 400 acres, not all of which immediately drains toward 56th Street. All of the additional 400 acres drains naturally southwest more toward 40th Street. Most of the additional area is to be shown as additional industrial land and approximately 125 acres of the original 200 acres shown as industrial is being changed to commercial. There will be about 125 acres of commercial along the frontage along 56th St. and Hwy. 77 on the

northwest corner. The remaining area would be shown as light industrial with small area of low density residential surrounding a few acreage lots developed the last five to ten years on the south side of Bluff Road. All of this area would be added to Priority A as part of the 2025 Comprehensive Plan.

Darl Naumann, Economic Development for the City and County, presented the redevelopment plan. Over two years ago, in a study on economic development conditions in Lincoln, Angelou Economics gave a failing grade to Lincoln for availability of large industrial sites, which need to be buffered from residential uses and out of the floodplain. An update gave Lincoln a D+ this year. Many times, we have had site selectors identify Lincoln as their favorite site and we are rated #4 in Forbes as list of the best places to be; however, many times we have been eliminated once they have looked at the land and we have not been able to provide sites of 80 to 100 acres close to the Interstate, out of the floodplain and buffered from residential.

This plan answers the need for the large industrial sites. Targeted development with private companies investing on N. 56th can improve conditions. The blight study was prepared. The North 56th and Arbor Road Blight Study is not the solution but merely a tool to address targeted development. The total area studied was 1,800 acres along N. 56th Street. There was a finding that development occurring in this general area presents itself as blighted and substandard. The study concluded that the authority should be granted to proceed with preparation of a redevelopment plan. This redevelopment plan may help us consume this elephant one bite at a time. Design of the area as blighted offers us some tools. It gives existing business access to facade improvement loans from CDBG, and the possibility of tax increment financing for public improvements. The redevelopment plan presents an opportunity to provide visible, easily accessible sites for commercial, industrial and employment center uses. This plan can improve the grade given to Lincoln by Angelou Economics. These sites need to be buffered from residential uses and out of the floodplain. They need sewer and water. Locally, the sewer and water prepare this area for existing companies to expand. The only means to put this area on the market is to provide TIF financing to bring sewer and water to the interstate. We have four-lane streets already built to provide the access to commercial and industrial uses.

Carroll questioned using TIF to bring the infrastructure to the property. What if you do that and the landowners do not want to wait for the big industrial user and want to subdivide and sell off? Naumann replied that is also a problem that Angelou saw. We can guarantee the sewer and water to these sites, but unless a private entity comes along or the businesses join together, it makes it difficult to control that. Carroll suggested there be an agreement that prohibits subdivision for a period of time. Naumann noted we have already designated it for heavy industrial and commercial north of the Interstate which addresses some of those needs. If they cannot get the large industrial user, they can come before the Planning Commission and request a change of zone. The redevelopment plan involves 1,800 acres from south to north.

Esseks inquired if there is a way that this zoning can be altered or specified to protect the Little Salt Creek from contamination. Game & Parks Commission wrote about the dangers. The problem is solvable. There needs to be some type of statement and policy to make sure there is no pollution of the creek.

Henrichsen stated that at the time the property north of the Interstate comes forward with a change of zone, staff can address that issue at that time as part of an annexation agreement or use permit or PUD.

Esseks wondered that since this is a Comprehensive Plan Amendment, if there isn't a way to indicate that policy exactly. Henrichsen replied that a subarea plan would have been the place to include some specific objectives. This is simply a change to the land use map and priority map. There is not a subarea plan. Esseks questioned how we make sure there is some type of statement in the record. Henrichsen suggested that when the specific change of zone comes forward, those issues can be addressed. Public Works does have concern about an access point at Hwy. 77, what this would look like from the Interstate, etc. Those will also be addressed at the time of change of zone.

Carlson wondered about including these concerns in the redevelopment plan. Wynn Hjermsstad of Urban Development replied that staff could certainly include that in the redevelopment plan, but it is just a guide for redevelopment. We can get specific about certain requirements once we get into the redevelopment agreement. There are some projects identified that we are pretty confident will be moving forward and each of those will have individual redevelopment agreements and it is at that time that we can provide those assurances.

Esseks noted that with the Tiger beetle in the area, it might be prudent to have some statement that the City is aware of the need to protect this species and that the change in the Comprehensive Plan puts that species at greater risk.

Proponents

1. Mark Hunzeker appeared on behalf of Developments, Unlimited. The Comprehensive Plan Amendment is a follow-up to what was approved about a year ago and this is largely in response to and hopefully a step toward addressing a need in the community for large industrial sites. We have been working on extending infrastructure north of Salt Creek in this area since about 1994. Now we have finally reached a point where we have some funding in the CIP in some future years. The plan is to use private funding to advance some of the sewer portion of the infrastructure needs and to use TIF to fill that gap. The immediate goal of the redevelopment plan and the redevelopment agreement, which will follow shortly, is to build the sewer and water to the north side of Interstate 80. We will not be proposing any immediate zoning changes to the north side of the Interstate, so the Comprehensive Plan change is simply a future land use. It is not authority to proceed with construction of any buildings, streets, etc. We are in an area where we are fortunate to have

the State supplying us with a major four-lane expressway north and south and a soon to be six-lane interstate running east and west. With these major roadways in place and the major infrastructure costs for development, we really need to take advantage of this opportunity to encourage development to occur where we have roads. We are in the process of discussing and drafting a redevelopment agreement which will likely be presented to the City Council almost simultaneously with the redevelopment plan. The redevelopment plan covers a much larger area than the redevelopment agreement. The agreement itself will likely focus on the area nearest Salt Creek and the narrow piece that is required to extend sewer and water from approximately Salt Creek and 56th up to the north side of the Interstate which should attract the larger industrial users. When and if a major industrial user comes to the table on the north side of the Interstate, there will be more than enough opportunity to discuss the rezoning and any use permits requirements. The letter from Game and Parks is over a year old and was the result of a meeting we had with Game and Parks before we actually proposed the last comprehensive plan amendment and before we brought forward the blight study. He believes their concerns can be addressed by appropriate development of the site. We will need to be careful about maintaining existing stormwater flows into Salt Creek as well as avoiding the direction of too much stormwater in that direction and providing sediment basins, etc. Keep in mind, this site, because it is restricted to the east side of 40th Street, is about a mile away from the identified Tiger Beetle habitat. This was done intentionally. Most of this site drains to the south. There will be some issues with sewer and water, but those won't be addressed in the first redevelopment agreement, that being solely for the purpose of getting sewer and water up to the north side of the interstate.

Larson questioned why the Lincoln Partnership for Economic Development is not involved. Hunzeker indicated that they have not been directly involved in the discussions with the City and the Game & Parks Commission. He knows they are aware and maybe it was an oversight on his part for not inviting them to come and participate in this discussion.

Carroll stated that using TIF to bring water and sewer substantially improves the north property. He questioned how long you hold that for a large industrial user. Hunzeker could not give a precise answer. Part of the reason we have requested the 125 commercial designation at the very corner was for that kind of potential. So that if we have major retailers or other non-industrial large site type of users, we will have a place to put them without having to use up the major portion that is set aside for large industrial users. He could not say that they would be willing or able to hold it indefinitely, but the purpose of the commercial designation at the corner is to accommodate smaller users rather than to try and cobble up large sites over time. We think it is important to have the large sites and the clients are committed for as long as they can.

Carroll questioned if using TIF affects the tax base for the school system. Hunzeker replied that it always affects it to some degree but he understands there is a formula that reimburses the school district for revenue it would otherwise get. There was concern about using TIF for residential uses and we have been discussing how far their concern goes. The hope is that we will be able to use only the first phase of what has been called and was approved by this

commission as North Bank Junction to supply the TIF for the sewer and water to get up to the Interstate. Beyond that point, the improvements north of the Interstate to the extent they will be serving major industrial type users, there may be some additional TIF that is generated to provide possibly water booster pump or water extensions to loop the area; possibly a short term sewer lift station, etc., but those will not be on the residential portion.

Larson wanted to know if all the land is in the city limits. Hunzeker replied not at this time. North Bank Junction is a project that has been sitting on the City Council agenda on pending for a better part of a year waiting for this to catch up so that we could get financing to bring the sewer across the creek and over to that project. Hopefully we can use the TIF from that project to move these improvements north to the Interstate. The first phase of Northbank Junction will be annexed as part of the redevelopment agreement and annexation agreement. The portion of the property which includes public improvements which will be built using TIF will have to be annexed.

Hunzeker proposed an amendment to the redevelopment plan; Roads and Streets for the purpose of making explicit reference to Alvo Road, which runs parallel to Salt Creek near the south end of this property and will serve as a collector or minor arterial in this area. We added that as a reference. We don't know at this time whether there will be adequate funding from TIF to either reimburse construction costs or to build it outright with TIF, but it is part of the project that we would like to include.

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Roads and Streets

Public streets and roadways serving the Redevelopment Area include Interstate 80, North 40th and North 70th Streets, which form the west and southeast boundary of the Redevelopment Area, and pass over the Interstate, North 56th Street (US Highway 77) which has a full interchange with the Interstate, Arbor Road, and North 58th Circle, a small cul-de-sac north off of Arbor Road. North 40th, North 56th and North 70th Streets are all section line roads and Arbor Road is a half-section line road. Alvo, the southerly section line road does not exist between North 40th and 70th streets. North 40th Street which is graveled in this area, ends approximately 0.6 miles south of Arbor Road. Arbor Road, runs parallel to the Interstate, is paved from North 70th Street to approximately 1/4 mile west of North 56th Street. Arbor Road continues west beyond the Redevelopment Area boundaries and passes under the Interstate to intersect with North 27th Street and dead-end at North 14th Street. A bridge, which will take Arbor Road over, rather than under, the Interstate will be completed in the Spring of 2006.

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Streets and Sidewalks

1. Future arterials in the Redevelopment Area are either gravel or county standard asphalt paving. Streets should be constructed in conjunction with redevelopment projects to enhance arterials and collectors or minor arterials, especially Alvo and Arbor Road.

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Sewer and Water

2. A new trunk sewer shall be design and constructed by the City that connects to the 60" sewer located at North 70th Street and the entrance of the Northeast Treatment Plant. This line will be a 36" line and progress west to North 68th Street, cross Salt Creek with a siphon and continue westward until it crosses North 56th Street north of Salt Creek. This trunk sewer should eventually be extended west to approximately 40th Street (size to be determined) ~~will then and also be~~ extended northward, crossing under Interstate 80 to a point approximately ½ mile south of Bluff Road. An additional trunk sewer extension should run westward along the north side of Interstate 80 from North 56th Street to North 40th Street and then run north along the North 40th Street ROW to a point approximately ½ mile south of Bluff Road a lift station and injection line will be located at the northeast corner of North 40th Street and Interstate 80 to transfer wastewater to trunk line located at intersection of North 56th Street and Interstate 80. The combination of these proposed trunk sewers and lift stations will serve the entire redevelopment area and be located in Project Sub-Area E.

The Commissioners indicated they did not have a full copy of the Redevelopment Plan.

Steve Henrichsen believes that this time the intent was that it was sent electronically. In the past, we had always sent a paper copy but we received it electronically. What is already at City Council is the North Bank Annex agreement which has been there for some time.

Marvin Krout, Director of Planning offered that it would be acceptable to defer this for two weeks. The amendments proposed by Mr. Hunzeker will be incorporated.

Strand moved to defer two weeks, seconded by Taylor and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

2. Mike Eckert appeared on behalf of Civil Design Group in support. In regards to the Tiger Beetle Habitat area, we have worked with city staff and one of the first things we did was to be proactive to address this issue. Game & Parks felt there were some hydrology issues that needed to be addressed. They were comfortable that we were staying on the east side of 40th Street. I-3 zoning is recommended and it is a use permit district, which allows us to come back many times before there is ultimate approval.

CHANGE OF ZONE NO. 06040

FROM B-1 LOCAL BUSINESS DISTRICT, B-3 COMMERCIAL DISTRICT AND R-6, 6-5 AND 6-4 RESIDENTIAL DISTRICTS TO R-4 AND R-2 RESIDENTIAL DISTRICTS, ON PROPERTY GENERALLY LOCATED BETWEEN 40TH AND 48TH STREETS, FROM RANDOLPH TO "A" STREETS

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 2, 2006

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Cornelius and Krieser absent.

Ex-Parte Communications: None

Additional information submitted for the record: Henrichsen submitted a letter signed by board members of the 40th and A Neighborhood Association outlining the steps they have taken in the last year and a half in terms of talking with the neighborhood, invitations to neighborhood meetings, etc.

Staff presentation:

Henrichsen stated in subsequent discussion they have amended the application to remove some of the properties that had registered opposition. Staff has gone ahead and set up a second neighborhood meeting for August 17th and that would allow that mailing to go out two weeks in advance. We are hoping to send that letter this week. If this were in place on August 30th, we would include the notice of the neighborhood meeting and the public hearing date .

Esseks questioned when this application for rezoning was formally applied for. Henrichsen replied that the change of zone application was submitted on May 31, 2006. That was in time to be scheduled be on the July 5 Planning Commission agenda.

Carroll wanted to know if the notice letter is including all the recommendations the Commission discussed. Henrichsen replied that staff will have an interim letter because the letter with recommended changes has yet to be reviewed by the Commission. For staff to be able to get the letters out by Friday, we did not have time to have that letter approved. We are generally giving contact information, nonstandard uses, etc.

Strand wondered if that means the properties you can identify as nonstandard will be notified

that they are listed as potentially nonstandard. Henrichsen stated that the City Attorney has recommended that this not be done. Part of the reason had to do with the fact that you are making assumptions about the land use. Our information base is based on building permits. If there is a change from single family to two family, it is not always necessarily caught on the map, so we could be sending a letter that is not correct. Instead, the City Attorney was comfortable with us providing information in regard to the aspects of nonstandard, and what type of things cause nonstandard. The letter gives them Steve Henrichsen's phone number and e-mail address for a contact. It recommends they come to the neighborhood meeting; and it provides the information as to where and when. In this case it would be almost four weeks in advance of the hearing and it would be approximately two weeks in advance of the second neighborhood meeting. We included a recommendation that they contact their title company or mortgage insurance company.

Strand questioned if he meant homeowners insurance, not mortgage insurance. Henrichsen agreed to include both.

Krout reiterated that staff did not have time to get the draft letter to the Commission. We tried to meet the spirit of it and will send a copy to the Planning Commission members when it goes out.

Henrichsen noted there are three more downzoning applications which have been filed and have agreed to the additional time for neighborhood meetings and notices.

Carroll stated that a previous discussion by Planning Commission talked about sending letters to the identified nonstandard lots that have the potential for being nonstandard. He wants this to be done. The key is "potential." Henrichsen responded that we are identifying that each property owner should look at it as there might be a "potential" in general. Krout stated that staff discovered that there is some ambiguous wording which might not make all of the single family homes that are in lots which you would call nonstandard. It is wording that needs to be clarified. You could make an interpretation that the single family homes on nonstandard lots do not fall into the classification where they are limited in terms of rebuilding and subject to the same problems as a duplex.

Esseks sees the danger of alerting some people and not others. It may give a false sense of security.

Strand suggested wording could state that "we have identified potentially 220 possible changes to a nonstandard situation" so they are aware. Carroll does not want it to be generic. Henrichsen stated that staff has added an entire separate page in addition to our standard notice letter that talks about downzoning and nonstandard and the special permit process. It notes that you could consult a title company and insurance company and contact numbers for staff. We are trying to put everyone on notice. It is already confusing that some of the properties are already nonstandard. There are only two lots of R-5 and one of R-6 on this application.

Carroll wanted to get this done. Henrichsen believes it has been done correctly. It is a complicated matter. The only thing we have not done is bring the letter back for review by the Planning Commission.

ACTION:

August 2, 2006

Esseks moved to rescind the previous action deferring this application until November 8, 2006, with the intent of having a decision on August 30th, seconded by Larson.

Esseks is thinking of August 30th because 90 days will have elapsed. When we look at the documentation the applicant has presented, they discuss a lot about what the change would be. They alert folks as to some of the scenarios that could be the result, including breaking up a large single family home to a duplex. Most of the ones that we wanted to be notified, have been notified. Given the regulations that exist at the time of the application, these folks have done a good job. The Planning Commission in their advisory role to the City Council should not hold things up any longer than 90 days. He believes the applicant deserves to get through Planning Commission either negatively or positively and go on to the legislative body.

Larson agreed. He was impressed with the packet provided by the neighborhood. It seems they have gone overboard and over a long period of time and he does not see why they should be deferred any longer.

Carroll noted that in all of the neighborhood's letters, they discussed R-4 to R-2 and did not mention the R-5, R-6 or B-3. They did not completely address it, but he does not want to hold it up any longer. There are going to be neighborhoods lining up to do downzoning and he wants to get ahead of them to get the adequate information out to make decisions. He agrees with August 30th public hearing on this one. He would like to implement more of the decisions of the Downzone Committee. He would like to see improvement in the letter that goes out to the public because it is important to inform the public that there will be changes to their lots and their land values. He wants to improve the process and that is all he is after.

Motion to rescind deferral carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

Strand moved to reschedule for August 30th, seconded by Carroll.

Strand requested that staff provide Planning Commissioners with a list of property owners who came down to state they did not want their zoning to be changed. Henrichsen offered to summarize that. One of those owners has already been removed from the application. Motion to reschedule for August 30th carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Cornelius and Krieser absent.

Carroll would like to comment in support of our Planning Director and staff because they may be eliminated one planner and it has the potential to affect the staff and the reports provided to the Commission. It will affect all of the special committees. We should support our Planning Director to get as much as staff as he needs.

Strand agreed and wanted to add the same comments about two cuts out of the Urban Development Department based on their efforts towards redevelopment and housing issues.

Larson agreed. Urban Development is removing blight from our city and they are very effective.

Esseks stated that we have heard that there is more development interest than there is land that can serve them. If we want to generate more revenue, we need to have sufficient staff to help us choose development projects. This is not the time to cut.

Sunderman believes maybe we are concentrating too much on short term expenses and not as much on long term advantages.

Strand truly appreciates hearing all sides of the story from staff. In order to make sound decisions, we need all the information and then decide the politically correct way to go. She applauded staff for always trying their best to give us every angle so that we can make good sound decisions.

There being no further business, the meeting was adjourned at 3:50 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 16, 2006.